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GOVERNOR

STATE OF MICHIGAN  
OFFICE OF FINANCIAL AND INSURANCE REGULATION  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
STANLEY "SKIP" PRUSS, DIRECTOR

KEN ROSS  
COMMISSIONER

## BILL ANALYSIS

**BILL NUMBER:** House Bill 4984, H-1  
**TOPIC:** Prohibit insurer interests in certain motor vehicle repair facilities  
**SPONSOR:** Representative Shanelle Jackson  
**CO-SPONSORS:** Representatives Woodrow Stanley, Rashida Tlaib, Coleman Young, Fred Durhal, Bettie Scott, Gabe Leland, Bert Johnson  
**COMMITTEE:** House Committee on Insurance  
**Analysis Done:** June 2, 2009

### POSITION

The Office of Financial and Insurance Regulation (OFIR) is neutral on this legislation.

### PROBLEM/BACKGROUND

Collision and comprehensive coverage can be expensive, depending on the type of vehicle and deductible limit purchased. In order to reduce the cost of car repairs, auto insurers often survey various repair shops and may refer policyholders with auto damage to the shops that meet their criteria for cost and quality, also known as "direct repair programs." These direct repair programs are designed to reduce the cost of claims paid, which ultimately helps contain insurance rates for collision and comprehensive coverage. Insurers may also offer premium discount plans to policyholders who opt to use certain repair shops if a claim arises, which can result in savings to consumers in the form of lower auto insurance rates. Insurance companies have also purchased or acquired ownership interests in auto repair shops in an effort to reduce costs.

Although insurers select the shops in a direct repair program, policyholders are not required to use these shops. However, if a policyholder does use one of the recognized repair shops, the insurer typically will guarantee that repairs will be done at no additional cost and repairs will be completed to the policyholder's satisfaction. Repair shops must meet certain requirements to become a member of an insurance company's direct repair program. Repair shops that fail to meet the repair program criteria argue that this exclusion puts them at a competitive disadvantage vis-à-vis the repair shops that participate in the direct repair program.

## **DESCRIPTION OF BILL**

The proposed legislation would regulate the use of preferred repair facilities by insurers through direct repair programs, prohibit insurers from owning or having an ownership interest in a repair facility and would require any insurer that currently has an interest in a repair facility to divest itself of ownership not later than two years after the effective date of this proposed legislation. This legislation also prohibits insurers from developing or maintaining lists of preferred repair facilities unless the insurer meets specific criteria. Lastly, the legislation allows a person, including a repair shop, to bring an action for injunctive or other appropriate relief against the insurer.

## **SUMMARY OF ARGUMENTS**

### **Pro**

Many insurance companies refer policyholders to repair shops in their direct repair programs or to repair shops which the insurance company either owns or has ownership interest. Some auto repair shops that do not participate in insurer direct repair programs have experienced difficulty convincing the customers of some insurance companies to patronize their businesses. The H-1 version of the legislation would require any insurer that uses a direct repair program to establish and publish a list of the criteria that would qualify a repair facility for participation, would require that all participating repair facilities be licensed, and would remove any limit on the number of repair facilities that may participate in the program. Presumably, this would increase the opportunities for repair facilities to participate in direct repair programs and to compete for insured vehicle repairs.

Prohibiting insurers from having ownership interests in repair facilities may reduce the perception of a conflict of interest by the insurers and repair facilities.

The legislation would require insurers that receive a discount of \$25 or more associated with a repair (associated with the direct repair program), to pass along at least \$25 of this amount to its customer.

### **Con**

The National Association of Insurance Commissioners (NAIC) ranks Michigan's collision coverage as nearly the most expensive in the nation. Insurers have argued that they should be allowed to obtain the best quality auto repair for their policyholders at the lowest available price. Insurers who use direct repair programs and/or have an ownership interest in repair shops argue that these measures are designed to reduce the cost of collision coverage in Michigan. Insurers will argue that restrictions on these cost saving programs will undermine any savings generated from the use of direct repair programs, thereby causing pressure on rates.

The proposed legislation would allow a person, including a repair shop, to bring an action against any insurer that violates the repair facility ownership interest provision. Insurers will argue that this legislation will increase litigation costs, which will in turn cause pressure on rates.

## **FISCAL/ECONOMIC IMPACT**

OFIR has identified the following revenue or budgetary implications in the bill:

(a) To the Office of Financial and Insurance Regulation:

Budgetary: OFIR may incur additional expense associated with monitoring and enforcing these new provisions.

Revenue:

Comments:

(b) To the Department of Labor & Economic Growth: None known.

Budgetary:

Revenue:

Comments:

(c) To the State of Michigan: None known.

Budgetary:

Revenue:

Comments:

(d) To Local Governments within this State: None known.

Comments:

## **OTHER STATE DEPARTMENTS**

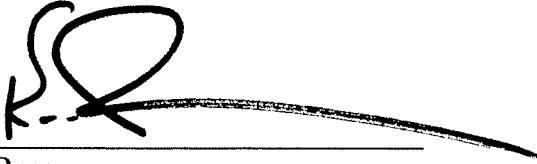
The Michigan Department of State may have some interest in this proposed legislation as the state regulatory agency responsible for regulating auto repair facilities.

## **ANY OTHER PERTINENT INFORMATION**

This proposed legislation is similar to legislation introduced the previous legislative session.

**ADMINISTRATIVE RULES IMPACT**

This proposed legislation would amend the Michigan Insurance Code. OFIR has general rulemaking authority under the Insurance Code of 1956, 1956 PA 218.

A handwritten signature in black ink, appearing to be 'KR' followed by a long horizontal stroke.

Ken Ross  
Commissioner

6-3-09

Date